

REMARKS

This amendment responds to the Final Office Action mailed on November 12, 2008, canceling claim 55. As a result, claims 1-8, 10-20, 22-32, 34-39, 51, and 53, are now pending in this application. A detailed response, subject to the reservation of rights included herein, follows.

Response to §102 Rejections

The Examiner rejected claim 55 under 35 U.S.C. § 102(b) as allegedly anticipated by Yanagihara (U.S. Patent 6,161,102). In response, applicant submits that claims 55 has been canceled without prejudice or disclaimer to moot the rejection and focus prosecution on the remaining claims.

Response to §103 Rejections

Claims 1-8, 11, 13, 18-20, 23, 25, 30-32, 35, 37, 39, 41 and 43-45 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Rao (U.S. Patent No. 6,581,056) in view of Anderson. (U.S. 6,005,860). (Note the Action appears to errantly refer to claims 6-8, rather than 1-8.) Applicant traverses the rejections as follows.

Regarding claims 1-8 and 11, applicant submits respectfully that neither Rao nor Anderson alone or in combination meet all the specific requirements of these claims. For example, neither Rao nor Anderson meet the requirement of "selecting one of a plurality of user input, stored electronic records search requests from a queued search database to execute next based upon one or more selection criteria."

The Action cites col. 2, lines 9-26 of Rao and col. 17, lines 27-35 and 55-65 of Anderson as meeting this requirement. However, one of skill would not find these passages as teaching the required selection of a queued search request from a queued search database. The Action concedes that Rao lacks this requirement, citing Anderson specifically to fill the gap. But, the cited Anderson passage merely teaches use of FIFO (first in-first-out) queue, not a search database. There is no evidence in the record that one of skill would regard a FIFO as identically being a search database.

Accordingly, applicant respectfully requests that the Examiner reconsider and withdraw the §103 rejection of claims 1-8 and 11

Additionally, claims 1-8 and 11 require “determining which of two or more different types of communication medium can be used to access at least one of a plurality of electronic records databases associated with the selected one of the electronic records search requests.” Neither Rao nor Anderson meet this requirement.

The Action cites Rao col. 3, lines 35-42 and 52-59 as meeting this requirement. However, close inspection of the passages reveals no indication of a determination of a type of communications medium, nor a determination of type of medium based on a search request selected from a database of search requests. At best, the cited passages appear to indicate a theoretical capability to operate within a variety of communications environments. But this is distinct from from any teaching of a system that actually performs an act of determining a type of communications medium based on a search request.

Accordingly, based on the two noted distinctions, applicant respectfully requests that the Examiner reconsider and withdraw the §103 rejection of claims 1-8 and 11.

Regarding claims 13, 18-20, and 23, applicant submits respectfully that neither Rao nor Anderson alone or in combination meet all the specific requirements of these claims. For example, these claims require “at least one processor executing a program of instructions for selecting one of a plurality of user input, stored electronic records search requests from a queued search database to execute next based upon one or more selection criteria.” These claims further require the processor executing a program of instruction for “determining which of two or more different types of communication medium can be used to access at least one electronic records database associated with the selected one of the electronic records search requests, retrieving instructions for accessing the at least one electronic records database based on at least one of the determined types of communication medium which can be used to access the at least one electronic records database Both of these are similar to the search request selection requirement and the communication medium determination of claims 1-8 and 11.

Accordingly, applicant respectfully requests that the Examiner reconsider and withdraw the §103 rejection of claims 13, 18-20, and 23.

Regarding 30-32, 35, 37, 39, 41 and 43-45, applicant requests respectfully that the Examiner reconsider and withdraw the rejection of these dependent claims based on the distinctions noted above.

Claims 38, 40, 42, 49, 51 and 53 were rejected as allegedly unpatentable over Rao in view of Anderson, and further in view of Ferrel (U.S. Patent No. 5,907,837).

In first response, applicant requests respectfully that the Examiner reconsider and withdraw the rejections of claims 38, 40, and 42, all dependent claims, based at least on one or more the distinctions noted for their base claims.

Regarding claims 49, 51, and 53, applicant submits respectfully that neither Rao, nor Anderson nor Ferrel teach evaluating user input search requests using the requisite two search selection criterion and then selecting which search request to execute based on the evaluation. Rao has no search selection at all. Anderson reports usage of a FIFO queue for processing search requests based on arrival time. Ferrel, in the Examiner's words, "teaches when the examined electronic search requests was last updated." Which if true would only meet one of the requisite two search selection criteria.

Accordingly, applicant respectfully requests that the Examiner reconsider and withdraw the §103 rejection of claims 49, 51, and 53.

Claims 2, 5, 14, 17, 26 and 29 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Rao in view of Anderson and further in view of Barr. (U.S. Patent No. 5,873,076). And, claims 3, 4, 10, 12, 15, 16, 22, 24, 27, 28, 34 and 36 were rejected similarly over Rao in view of Anderson and further in view of Wolfe (U.S. Patent No. 6,263,351). And, Claims 46, 47 and 48 were rejected similarly over Rao in view of Anderson and further in view of Kanoh (U.S. Patent No. 5,873,077).

In response, applicant respectfully submits that these claims stem from base claims that are believed to distinguish at least for reasons already noted above. Accordingly, requests

respectfully that the Examiner reconsider and withdraw the §103 rejection of these dependent claims.

Reservation of Rights

In the interest of clarity and brevity, applicant may not have equally addressed every assertion made in the Office Action; however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant submits respectfully that based on the highlighted distinctions the claims are in condition for allowance, and notification to that effect is earnestly requested. Additionally, applicant invites the Examiner to telephone its representative Mr. Drake at (612) 349-9593 to facilitate prosecution of this application in the event that a Notice of Allowance is not considered appropriate given the noted distinctions.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

13 April 2009

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 13, 2009.

Eduardo E. Drake
Name

Signature